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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

JEFF HATCH-MILLER, Chairman  
WILLIAM A. MUNDELL  
MARC SPITZER  
MIKE GLEASON  
KRISTIN K. MAYES

Arizona Corporation Commission

**DOCKETED** **RECEIVED**

FEB 15 2005

FEB 16 2005

DOCKETED BY

*NR* AZ Corporation Commission  
Director Of Utilities

IN THE MATTER OF THE APPLICATION OF  
ARIZONA AMERICAN WATER COMPANY FOR  
AN EXTENSION OF ITS CERTIFICATE OF  
CONVENIENCE AND NECESSITY TO PROVIDE  
WATER SERVICE IN SANTA CRUZ COUNTY.

DOCKET NO. W-01303A-04-0602

DECISION NO. 67587

**OPINION AND ORDER**

DATE OF HEARING:

January 13, 2005

PLACE OF HEARING:

Tucson, Arizona

ADMINISTRATIVE LAW JUDGE:

Jane L. Rodda

APPEARANCES:

Mr. Craig Marks, on behalf of Arizona  
American Water Company;

Mr. Steven Wene, MOYERS STOREY,  
on behalf of intervenor Tubac  
Management Co., LLC; and

Mr. David Ronald, Staff Attorney, Legal  
Division, on behalf of the Utilities  
Division of the Arizona Corporation  
Commission.

**BY THE COMMISSION:**

\* \* \* \* \*

Having considered the entire record herein and being fully advised in the premises, the  
Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

**FINDINGS OF FACT**

1. On August 16, 2004, Arizona American Water Company ("AAWC" or "Company")  
filed an Application for an extension of its Certificate of Convenience and Necessity ("Certificate" or  
"CC&N") for its Tubac District to provide water service in a portion of Santa Cruz County, Arizona.

2. On September 15, 2004, Commission Utilities Division Staff ("Staff") informed the  
Company that its Application did not meet the sufficiency requirements of A.A.C. R14-2-402.

1           3.       On November 12, 2004, Staff docketed notification to the Company that its  
2 application met the sufficiency requirements of A.A.C. R14-2-402.

3           4.       By Procedural Order dated December 1, 2004, the matter was set for hearing in  
4 Tucson, Arizona, and procedural guidelines and deadlines were established.

5           5.       As required by the Procedural Order, AAWC mailed notice of the hearing to the  
6 property owner in the extension area and had the notice published in the *Nogales International*  
7 *Herald* on December 14, 2004.

8           6.       On December 16, 2004, intervention was granted to Tubac Management Company  
9 LLC, the owner and developer of the property within the proposed extension area.

10          7.       On December 17, 2004, Staff filed its Staff Report, recommending approval of the  
11 Application.

12          8.       The hearing convened as scheduled on January 13, 2005, at the Commission's Tucson  
13 offices. Mr. Frederick Schneider, director of engineering for the western region for American Water  
14 Works Service Company testified for AAWC. Mr. Rod Siler, President of the Tubac Golf Resort  
15 Homeowners Association and Tubac Golf Resort, and Ms. Chrisinda Ballew, project manager for the  
16 water and wastewater department of the WLD Group, testified on behalf of the intervenor. Mr. Jim  
17 Fisher testified for Staff.

18          9.       AAWC is an Arizona corporation in good standing, engaged in providing water and  
19 wastewater utility service within portions of Maricopa, Mohave and Santa Cruz Counties, Arizona. It  
20 is a wholly-owned subsidiary of American Water Works Company, Inc., which provides utility  
21 service to approximately 15 million customers in 27 states. American Water Works, Inc. is a wholly-  
22 owned subsidiary of a German multinational corporation, RWE AG.

23          10.       In this application AAWC is seeking to extend the CC&N of its Tubac Division to  
24 include a proposed development by the Tubac Golf Resort.

25          11.       The proposed extension area comprises approximately 119 acres and is contiguous to  
26 AAWC's existing Tubac District certificated area. The legal description of the proposed extension  
27 area is attached hereto as Exhibit A, and incorporated herein by reference.

28          12.       On June 30, 2004, Tubac Management Co. LLC signed a Main Extension Agreement

1 (“MXA”) with AAWC. The total development will consist of approximately 254 acres. One hundred  
2 thirty five acres of the development are already included within AAWC Tubac Division’s certificated  
3 area. Thus, this extension request adds only an additional 119 acres. The plan is to develop 229  
4 residential lots and some commercial development including resort and spa facilities. The Tubac  
5 Management Company will finance the facilities required to serve the extension area with Advances  
6 in Aid of Construction. According to the MXA between AAWC and Tubac Management Co., the  
7 developer is to design, construct and install the facilities and AAWC will refund 10 percent of the  
8 annual water revenue associated with the development for a period of ten years.

9 13. AAWC’s Tubac District water system currently consists of three equipped wells,  
10 producing 1,100 gallons-per-minute (“GPM”), a 50,000 gallon storage tank and a distribution system  
11 with 540 connections. The Company predicts an additional 232 connections at the end of five years  
12 for the entire development.

13 14. Based on existing well production and storage capacities, the system can serve  
14 approximately 800 service connections. Staff concludes that the existing system, along with the  
15 planned additions, has adequate source and storage capacity to serve the existing and proposed  
16 extension areas within a conventional five-year planning period.

17 15. The facilities needed to serve the new development consist of approximately \$350,000  
18 for water lines and \$720,000 for backbone facilities.

19 16. Staff concludes that the above proposed plant facilities for each of the projects and  
20 their cost estimates are reasonable. Staff makes no “used and useful” determination, and states that  
21 no particular treatment should be inferred for rate making or rate base purposes.

22 17. The Arizona Department of Environmental Quality (“ADEQ”) reports that the AAWC  
23 Tubac system has no deficiencies and determined that this system is currently delivering water that  
24 meets the water quality standards required by Arizona Administrative Code, Title 18, and Chapter 4.

25 18. The Company has not received the ADEQ Certificate of Approval to Construct  
26 (“ATC”) for construction of the new facilities.

27 19. The U. S. Environmental Protection Agency (“EPA”) has reduced the arsenic  
28 maximum contaminant level (“MCL”) in drinking water from 50 parts per billion (“ppb”) to 10 ppb.

1 The date for compliance with the new MCL is January 23, 2006. AAWC indicates the arsenic levels  
2 for Well No. 2 is 21 ppb, 8 ppb for Well No. 3, and 34 ppb for Well No. 4. The proposed new  
3 Garrett Well is at 20 ppb. Based on these arsenic concentrations, the Company will be using the  
4 absorption treatment method to achieve a target arsenic level of 8 ppb. The Company is in the design  
5 stage for arsenic treatment and the treatment equipment and absorbent media have been ordered from  
6 the vendor for delivery in 2005. The Company will be installing a granular iron absorption treatment  
7 facility, together with the necessary media required to treat the water to meet federal arsenic  
8 guidelines.

9 20. AAWC's Tubac system is within the Santa Cruz Active Management Area ("AMA")  
10 for the Arizona Department of Water Resources ("ADWR"). Thus, each developer will be required  
11 to obtain a Certificate of Assured Water Supply, or alternatively, AAWC can obtain a Designation of  
12 Assured Water Supply from ADWR for the entire development.

13 21. On November 18, 2004, ADWR informed the developer that its application will need  
14 a decision and order from the Commission before the Certificate of Assured Water Supply can be  
15 issued.

16 22. The Company is in compliance with Commission rules, regulations and Orders.

17 23. The Company is current with its property and sales taxes.

18 24. The Company has an approved Curtailment Tariff for "All Service Areas" that became  
19 effective on December 7, 2004 per Decision No. 67093.

20 25. The proposed extension area is included within AAWC's current county franchise.

21 26. Staff recommends:

22 (a) That AAWC charge its authorized rates and charges in the extension area;

23 (b) That AAWC file with Docket Control a copy of the ADEQ Approval to Construct  
24 within 365 days of any Decision in this matter;

25 (c) That AAWC file with Docket Control a report on the arsenic levels of the  
26 production wells and associated treatment within 365 days of any decision in this matter;

27 (d) That AAWC file with Docket Control a copy of the developer's Certificate of  
28 Assured Water Supply within 365 days of any Decision in this matter; and

1 (e) The Commission Decision granting this CC&N extension be considered null and  
2 void without further order from the Commission should AAWC fail to meet Conditions b, c, and d  
3 within the time specified.

#### 4 CONCLUSIONS OF LAW

5 1. AAWC is a public service corporation within the meaning of Article XV of the  
6 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

7 2. The Commission has jurisdiction over AAWC and the subject matter of the  
8 application.

9 3. Notice of the application was provided in accordance with law.

10 4. There is a public need and necessity for water service in the proposed extension area  
11 set forth in Exhibit A.

12 5. AAWC is a fit and proper entity to receive a CC&N to provide water service in the  
13 proposed extension area.

14 6. Staff's recommendations contained in Findings of Fact No. 26 are reasonable and  
15 should be adopted.

#### 16 ORDER

17 IT IS THEREFORE ORDERED that the application of Arizona American Water Company  
18 for an extension of its Certificate of Convenience and Necessity for its Tubac system to provide water  
19 service to the area in Santa Cruz County, Arizona, described in Exhibit A hereto, is approved.

20 IT IS FURTHER ORDERED that Arizona American Water Company shall charge its existing  
21 rates and charges within the approved extension areas.

22 IT IS FURTHER ORDERED that Arizona American Water Company shall file a copy of the  
23 developer's Approval to Construct for the facilities required to serve the extension area, a copy of the  
24 developer's Certificate of Assured Water Supply, and a report on the arsenic levels of the production  
25 wells and associated treatment within 365 days of the effective date of this Decision.

26 ...


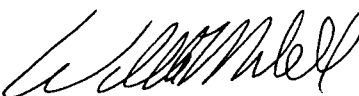

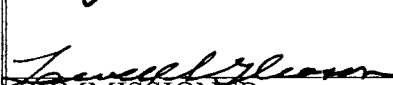

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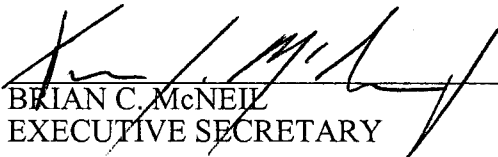
IT IS FURTHER ORDERED that failure to meet the deadlines specified herein shall cause the grant of a Certificate of Convenience and Necessity for the extension area to be considered null and void without further order from the Commission.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

		
CHAIRMAN	COMMISSIONER	COMMISSIONER
		
COMMISSIONER	COMMISSIONER	

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 15<sup>th</sup> day of Feb., 2005.

  
BRIAN C. McNEIL  
EXECUTIVE SECRETARY

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

JR:mj

1 SERVICE LIST FOR:

ARIZONA AMERICAN WATER COMPANY

2 DOCKET NO.:

W-01303A-04-0602

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12 Mr. Christopher Kempley, Chief Counsel  
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16 Phoenix, Arizona 85007

17 Mr. Ernest Johnson, Director  
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28

The  
WLB  
Group  
Inc.

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SEP 15 2004

AZ CORPORATION COMMISSION  
DIRECTOR OF UTILITIES

**DESCRIPTION OF  
AREA FOR EXPANSION  
OF CC&N BOUNDARY**

W-01303A-04-0602

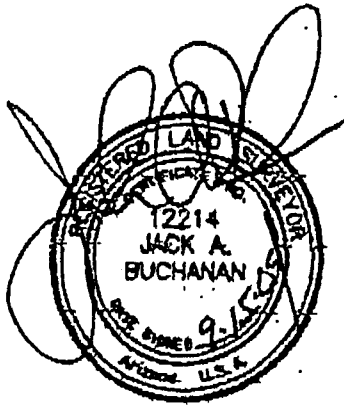
All of that portion of Section 7, Township 21 South, Range 13 East, Santa Cruz County,  
Arizona described as follows:

ALL of the Northeast quarter of said section 7, except the Northwest quarter  
thereof.

Containing 118.9 acres, more or less.

Prepared by:  
THE WLB GROUP, INC.

Jack A. Buchanan, RLS  
JAB:cdb



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DOCUMENT CONTROL

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